

Hearing Date and Time:
May 25, 2011 at 10 a.m.

DEENA PLAIRE-HAAS
GARDNER, WILLIS, SWEAT & HANDELMAN, LLP
Attorneys for Defendant,
Burlen Corp.
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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:

VALUE CITY HOLDINGS, INC., et al., Chapter 11

Debtor.

Case No. 08-14197 (JMP)
(Jointly Administered)

-----x
VALUE CITY DEPARTMENT STORES, LLC,

Plaintiff,

Adversary Proceeding
Case No. 09-01800 (JMP)

v.

BURLEN CORP.,

Defendant.

-----x
**RESPONSE OBJECTION OF BURLEN CORP. TO THE MOTION AND PROPOSED
ORDER ESTABLISHING MEDIATION PROCEDURES PURSUANT TO 11 U.S.C. §
547**

To: Honorable John M. Peck
United States Bankruptcy Judge

COMES NOW, BURLEN CORP., and hereby objects to the Motion
and Proposed Order and Procedures for Mediation proposed by the
Debtor in the above captioned matter, and respectfully shows the
Court as follows:

1.

Burlen Corp. is the Defendant in the Adversary No. 09-01800,

for an alleged preference payment in the amount of approximately \$25,000.00. Burlen Corp. is an entity located in Georgia. The payment in question was for invoices for goods sold and delivered.

2.

The Defendant, Burlen Corp., responded to discovery sent by the Plaintiff and has attempted to contact the Plaintiff's counsel on at least five (5) different occasions. Until day before yesterday, no response had been made from opposing counsel to the undersigned's inquiries via email.

3.

The proposed Motion provides that the Plaintiff has been unsuccessful in settling this action. Said statement is absolutely untrue insofar as the undersigned has received no communication or attempt to settle said Adversary Proceeding prior to yesterday. Now, the Debtor proposes that Burlen Corp. be required to pay for one-half (1/2) of the cost of mediation which is not reasonable or fair given the circumstances.

4.

Additionally, the Debtor's are proposing that the Defendant be required to appear in person at the mediation. Said requirement is not reasonable given the distance between the Court and the Defendant's location in Georgia. The costs and time required to travel to New York imposes an unreasonable expense upon a party and furthers the unfair result of attempting to coerce a settlement from a Defendant who has been attempting to communicate with the parties.

5.

The Defendant, Burlen Corp., respectfully request that if mediation is required that it be allowed to attend by telephone conference.

WHEREFORE, Burlen Corp. respectfully request that the Motion be denied insofar as the same is unreasonable, uncostly and has not been brought in good faith.

RESPECTFULLY SUBMITTED, this 18th day of May, 2011.

GARDNER, WILLIS, SWEAT & HANDELMAN, LLP

/S/DEENA PLAIRE-HAAS
DEENA PLAIRE-HAAS
Attorney for Defendant
Georgia State Bar No. 581355
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CERTIFICATE OF SERVICE

GEORGIA, DOUGHERTY COUNTY.

THIS WILL CERTIFY that I have this date served Plaintiff's attorney, Avery Samet, Esq., Storch Amini & Munves, P.C., 2 Grand Central Tower, 25th Floor, 140 East 45th Street, New York, New York, 10017, Attorneys for Plaintiff, and Office of the US Trustee, 33 Whitehall Street, 21st Floor, New York, NY 10004 (attn: Gregory Zipes), with a copy of the within and foregoing RESPONSE OBJECTION OF BURLIN CORP. TO THE PROPOSED ORDER ESTABLISHING MEDIATION PROCEDURES PURSUANT TO 11 U.S.C. § 547 by depositing same in the United States Mail with sufficient postage affixed thereon to assure delivery.

This 18th day of May, 2011.

GARDNER, WILLIS, SWEAT & HANDELMAN, LLP

/S/DEENA PLAIRE-HAAS
DEENA PLAIRE-HAAS
Attorney for Defendant